



San Diego City Attorney **MICHAEL J. AGUIRRE**

NEWS RELEASE

FOR IMMEDIATE RELEASE: October 25, 2006

Contact: Maria Velasquez, Communications Director (619) 235-5725 mvelasquez@sandiego.gov

PENSION BOARD WITHDRAWS FROM EFFORT TO DEFEND ILLEGAL PENSION BENEFITS AS TRIAL IS SET TO BEGIN TOMORROW

San Diego, CA: As the City's pension trial over alleged illegal benefits takes center stage tomorrow, the City Council, on the advice of City Attorney Michael Aguirre, agreed to a partial settlement with the San Diego City Employees' Retirement Board (SDCERS) in the *SDCERS v City Attorney Michael J. Aguirre, et. al.* GIC841845.

As part of the settlement, SDCERS has agreed to accept the final ruling of the Court as to whether or not the pension benefits granted in 1996 and 2002 by the City Council were illegal and must be rescinded. In addition, the City has agreed to drop its request that the Court immediately require the City Auditor to stop payment of pension benefits to SDCERS because the Auditor did not require and SDCERS did not provide certification that the Pension Board had not violated the State's conflict-of-interest provisions (California Government Code section 1090).

"SDCERS stepped out of the fight," said City Attorney Michael Aguirre. "They are no longer defending the illegal pension benefits."

The unanimous vote (7-0) to accept the settlement occurred in closed session this morning. Council President Pro Tem Tony Young was absent.

The City Attorney is seeking the following court action based on violations of California Government Code section 1090's conflict-of-interest laws; the California Constitution Article XVI, section 18, which requires a City to seek approval of voters before creating certain financial liabilities; and the San Diego City Charter's section 99 Liability Limit Law, which establishes the "pay as you go" principle as a cardinal rule of municipal finance:

- A. Rescind new pension benefits that were granted under the 1996 Manager's Proposal I, which included an unfunded increase in the retirement factor used to determine retirement benefits; purchase of service credits of up to five years which were priced below market value; and the Deferred Retirement Option Plan (DROP) that allowed a

(MORE)

Recent City Attorney media releases can be accessed on the San Diego City Attorney's home page located on the Internet at <http://www.sandiegocityattorney.org>

1200 Third Avenue, Suite 1620, San Diego, California 92101-4188 (619) 236-6220

member to “retire” from the City and begin earning his or her retirement benefits while remaining employed by the City.

- B. Rescind new pension benefits that were granted under the 2002 Manager’s Proposal II, which increased pension benefits without a funding source; and created the so-called “Presidential Benefit” whereby certain union presidents could have their union salaries counted along with their City salaries for the purposes of calculating their retirement benefit.

###